

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JOE SIMMONS, MARY SIMMONS,
TOM JACKSON & ALVIN TALLIE,
for themselves and a class
similarly situated,

PLAINTIFFS

vs.

Civil Cause No. 1:94cv164-D-D

JIMMY DUKES, Director, Mississippi
Bureau of Narcotics; LARRY GRISHAM,
Law enforcement officer; RONNIE
THOMSON, Law enforcement officer;
and RAY MOORE, Deputy Sheriff of
Clay County, Mississippi,

DEFENDANTS

MEMORANDUM OPINION

This matter is before the undersigned on the motion of the defendants to apply the principles espoused in the United States Supreme Court decision of Younger v. Harris, 401 U.S. 37, 27 L.Ed.2d 699 (1971), and dismiss the plaintiffs' claims for declaratory relief, injunctive relief and to stay their claims for monetary damages. Finding that there are pending state proceedings in which the plaintiffs can or should have asserted the constitutional arguments which they have advanced in the present case, this court is of the opinion that the motion should be granted.

FACTUAL SUMMARY

Plaintiffs in the case at bar are title owners of automobiles that were seized by law enforcement officials under the auspices of the "civil" forfeiture provision of the Mississippi Uniform

Controlled Substances Law, Miss. Code Ann. § 41-29-153 (1972)¹. The plaintiffs are now before this court seeking injunctive and declaratory relief, as well as monetary damages. As a basis for relief, the plaintiffs assert that the Mississippi statute is unconstitutional on its face and as applied, in violation of the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States. Two of the seizures² complained of by the plaintiffs have resulted in pending forfeiture proceedings in Mississippi circuit courts, where the plaintiffs are represented by adequate counsel.

DISCUSSION

The doctrine which emanates from the Younger v. Harris decision is one motivated by the interests of judicial economy and the balance of proper state and federal relations. Ballard v. Wilson, 856 F.2d 1568, 1570 (5th Cir. 1988). "The Younger doctrine reflects considerations of equity, comity, and

¹ This statute is patterned after a federal statute which accomplishes the same purpose. See 21 U.S.C. § 881. Virtually every state in the nation has adopted a similar law. See James B. Speta, *Narrowing the Scope of Civil Drug Forfeiture: Section 881, Substantial Connection and the Eighth Amendment*, 89 Mich. L. Rev. 165, 205 n.276 (1990).

² A third seizure that was in issue in this case has not and will not result in a forfeiture proceeding in state court. A 1981 Chevrolet Cavalier seized by one of the defendants has been turned over to General Motors Finance Corporation pursuant to a contractual obligation between it and the plaintiff title owner, particularly the failure to make timely payments after the seizure took place.

federalism." Nobby Lobby, Inc. v. City of Dallas, 970 F.2d 82, 86 n.4 (5th Cir. 1992); DeSpain v. Johnston, 731 F.2d 1171, 1175-76 (5th Cir. 1984). Under Younger and its progeny, abstention is appropriate where "assumption of jurisdiction by a federal court would interfere with pending state proceedings, whether of a criminal, civil, or even administrative character." World of Faith Outreach Church v. Morales, 986 F.2d 962, 966 (5th Cir. 1993). Such abstention applies to both injunctive and declaratory relief, because "ordinarily a declaratory judgment will result in precisely the same interference with and disruption of state proceedings that the long-standing policy limiting injunctions was designed to avoid." Nobby Lobby, Inc., 970 F.2d at 86 (quoting Samuels v. Mackell, 401 U.S. 66, 72, 91 S.Ct. 764, 767, 27 L.Ed.2d 688 (1971)). However, even when a Younger abstention is proper, a district court has no discretion to dismiss claims for monetary relief which cannot be addressed in the pending state action. Deakins v. Monaghan, 484 U.S. 193, 202, 108 S.Ct. 523, 98 L.Ed.2d 529 (1988); Lewis v. Beddingfield, 20 F.3d 123, 125 (5th Cir. 1994).

Excluded from the application of Younger are situations arising within the narrowly drawn "bad faith" exception. The exception arises "in cases of proven harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid conviction and perhaps other extraordinary

circumstances where irreparable injury can be shown . . ." Nobby Lobby, 970 F.2d at 87 (quoting Perez v. Ledesma, 401 U.S. 82, 85, 91 S.Ct. 674, 677, 27 L.Ed.2d 701 (1971)). The plaintiffs have not provided any information to this court that indicates that the defendants have acted in bad faith by relying upon the challenged statute³. Further, there is nothing before the court to establish that the plaintiffs will suffer any irreparable injury if this court abstains from exercising jurisdiction over these matters. The injury alleged by the plaintiffs in this case appears to be primarily financial, e.g., seizure of rapidly-depreciating vehicles. It is the opinion of this court that monetary damages, if warranted, will adequately compensate the plaintiffs for any injuries that they have suffered.

The proper operation of the Younger doctrine hinges upon the availability of an adequate remedy in state court for the violation of federal rights. Ballard v. Wilson, 856 F.2d 1568, 1571 (5th Cir. 1988); DeSpain, 731 F.2d at 1178. Regardless of any potential merit that the plaintiffs' claims may have⁴, this court is

³ In fact, the plaintiffs have not responded to the defendants' motion to dismiss at all.

⁴ This court is particularly intrigued by the plaintiffs' claim under the Eighth Amendment that the forfeitures constitute an excessive fine, as well as a potential double jeopardy problem, particularly in light of recent decisions of the United States Supreme Court. See, e.g., Austin v. United States, 509 U.S. ---, 113 S.Ct. 2801, 125 L.Ed.2d 488 (1993); Alexander v. United States, 509 U.S. ---, 113 S.Ct. 2766, 125 L.Ed.2d 441 (1993); see also Joy Chatman, *Losing the Battle, But Not the*

confident that these matters can be fully litigated in the pending causes before the courts of the state of Mississippi. "If he loses in the state courts he may petition to the United States Supreme Court to grant certiorari to review his constitutional claims." Ballard, 856 F.2d at 1571. A Younger abstention is appropriate while these cases work their way through the state appellate process. Id. (citing Hicks v. Miranda, 422 U.S. 332, 350 n. 18, 95 S.Ct. 2281, 2292, 45 L.Ed.2d 223 (1975)).

CONCLUSION

In that there are pending state proceedings related to the case at hand in which the plaintiffs may assert their constitutional arguments, and in light of the fact that this court can discern no improper motive on the part of the defendants in enforcing the challenged statute, this court is bound by the decision of Younger v. Harris to abstain from asserting jurisdiction over the plaintiffs' claims for injunctive and declaratory relief. Further, the plaintiffs' claims for monetary damages will be stayed pending resolution of the pending state law

War: The Future Use of Civil Forfeiture by Law Enforcement Agencies After Austin v. United States, 38 St. Louis U. L.J. 739 (1994); Robin M. Sackett, The Impact of Austin v. United States: Extending Constitutional Protections to Claimants in Civil Forfeiture Proceedings, 24 Golden Gate U. L.Rev. 495 (1994); Recent Development, Austin v. United States: Supreme Court Applies Eighth Amendment Excessive Fines Clause to In Rem Forfeiture Actions, 20 J. Contemp. L. 171 (1994). However, this court is not the proper location for such inquiry in the case at bar.

actions.

A separate order in accordance with this opinion shall issue
this day.

This, the _____ day of December, 1994.

United States District Judge

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THOMSON, Law enforcement officer;
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DEFENDANTS

ORDER DISMISSING AND STAYING CLAIMS

Pursuant to a memorandum opinion issued this day, it is hereby
ORDERED THAT:

1) pursuant to the Younger abstention doctrine, the motion
of the defendants to dismiss the plaintiffs' claim for declaratory
relief is hereby GRANTED.

2) pursuant to the Younger abstention doctrine, the motion
of the defendants to dismiss the plaintiffs' claim for injunctive
relief is hereby GRANTED.

3) the motion of the defendants to stay the plaintiffs'
claims for monetary damages is hereby GRANTED.

SO ORDERED, this the _____ day of December, 1994.

United States District Judge